

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (Court – II)
KOLKATA**

IA(I.B.C)/1011(KB)2024

C.P. (IB)/972(KB)2018

***An application under Section 60(5) of the Insolvency &
Bankruptcy Code, 2016 and Read with Rule 34 of the
National Company Law Tribunal Rules, 2016.***

In the matter of:

(1) BELL FINVEST (INDIA) LIMITED.

... Financial Creditor

-Versus-

(2) DUCKBILL DRUGS PRIVATE LIMITED.

... Corporate Debtor

-And-

(3) Mr. Tapas Bhattacharjee

... Applicant

-Versus-

**(4) Mr. Santanu Brahma, Son of Late Amalendu Brahma, Liquidator of
Duckbill Drugs Private Limited (in liquidation), having registration
number IBBI/IPA-001/IP-P01482/2018-2019/1225, Salt Lake,
Sector – II, Kolkata – 700 091;**

... Respondent

Date of pronouncing of the order: 22/07/2024

Coram:

SMT. BIDISHA BANERJEE HON'BLE MEMBER (JUDICIAL)

SHRI D. ARVIND HON'BLE MEMBER (TECHNICAL)

Appearances (via video conferencing/physically):

| | | |
|------------------------------------|----------|--------------------------------------|
| Mr. Shaunak Mitra, Adv. | : | For the Liquidator |
| Ms. Debaleena Ganguly, Adv. | : | |
| Mr. Avishek Guha, Adv. | : | For the SRA in IA 683 of 2024 |
| Mr. S. Bose, Adv. | : | |
| Mr. K. D. Sarkar, Adv. | : | |
| Mr. A. Chowdhury, Adv. | : | For the applicant in |
| Ms. S. K. Singh, Adv | : | IA 1011 of 2024 |

ORDER

Per: D. Arvind, Member (Technical)

1. The Court is convened through hybrid mode.
2. Ld. Counsels appearing on behalf of the parties were heard in extenso.
3. This is an application preferred by one Mr. Tapas Bhattacharjee (hereinafter referred to as “applicant”) against Mr. Santanu Brahma, the liquidator of Duckbill Drugs Private Limited (hereafter referred to as “respondent/corporate debtor”) seeking for the following relief(s) *inter alia*: -

(a) The Team Liquidator may be directed to consider and dispose of the claim of the applicant on account of Leave Encashment as directed by this Hon’ble Tribunal in Order dated 27.02.2024.

(b) Such further Order or Orders as this Hon’ble Tribunal may deem fit and proper.

4. Factual matrix of the case is as under: -

(a) This application has been preferred by a superannuated employee of Duckbill Drugs Private Limited (in Liquidation).

The applicant is an ex-employee of the said Company from 01.06.1993 to 31.01.2022.

- (b)** After being superannuated from employment the applicant made a written representation to the management of the Corporate Debtor on 04.02.2022 requesting for release of post-retirement benefit and full & final settlement.
- (c)** The applicant states that in the absence of response, the applicant went to the office of the Corporate Debtor and came to know that the Corporate Debtor has gone into liquidation pursuant to an Order dated 13.04.2021 pass by this Adjudicating Authority in C.P. (IB) No. 972/KB/2018.
- (d)** A claim in the prescribed form was filed with the liquidator, the respondent herein on 06.05.2022 and claim included the sum payable towards leave encashment, claims the applicant.
- (e)** The applicant states that the liquidator had released a sum of Rs. 1,69,793/- towards gratuity but had not considered the claim on account of leave encashment.

5. Analysis and Findings: -

- (a)** Heard both the counsels, we find that no formal claim has been made by the applicant in the prescribed form on account of leave encashment. Only in a letter dated 06.05.2022, the applicant has brought to the attention of the respondent about the leave encashment that too without any supporting documents.

(b) It appears that the instant application suffers an inordinate delay not only in filing claim, but also in filing this application and substantial deficiencies. We find no merit in this application, hence, its dismissed.

6. This application, i.e., **IA(I.B.C)/1011(KB)2024** is hereby **dismissed** accordingly.
7. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
8. Urgent certified copy of this Order may be issued, if applied for, with the Registry, upon compliance of all requisite formalities.
9. File be consigned to records.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on: 22nd of July, 2024.

Ar. [steno]